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8 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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PEDRO JOAQUIN OLIVAS,  
Petitioner,  
v.  
MATTHEW CATE,  
Respondent.

No. C 11-3230 JSW (PR)

**ORDER OF DISMISSAL**

17 Petitioner, a state prisoner currently incarcerated at Mule Creek State Prison, has  
18 filed a second or successive petition for a writ of habeas corpus pursuant to 28 U.S.C. §  
19 2254. His prior petition is currently pending in this Court. *See Olivas v. Martel*, No. 11-  
20 0499 JSW (N.D. Cal.). A second or successive petition may not be filed in this court  
21 unless petitioner first obtains from the United States Court of Appeals for the Ninth  
22 Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. §  
23 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth  
24 Circuit. The petition is accordingly DISMISSED without prejudice to refiling if  
25 Petitioner obtains the necessary order.

26 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district  
27 court to rule on whether a Petitioner is entitled to a certificate of appealability in the  
28 same order in which the petition is decided. Petitioner has failed to make a substantial

1 showing that a reasonable jurist would find this Court's denial of his claim on procedural  
2 grounds debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).  
3 Consequently, no certificate of appealability is warranted in this case.

4 The Clerk shall enter judgment and close the file.

5 IT IS SO ORDERED.

6 DATED: August 24, 2011

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8 JEFFREY S. WHITE  
9 United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PEDRO JOAQUIN OLIVAS,

Case Number: CV11-03230 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

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MATTHEW CATE et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 24, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Pedro Joaquin Olivas  
F92862  
Mule Creek State Prison  
P.O. Box 409040  
Ione, CA 95640

Dated: August 24, 2011

Jennifer Ottolini

Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk